

United States Senate
WASHINGTON, DC 20510-3005

April 4, 2008

Mayor Michael R. Bloomberg
City Hall
New York, NY 10007

Dear Mayor Bloomberg:

I write to express my strong opposition to any congestion pricing plan that would unfairly burden New Jersey drivers entering Manhattan with higher fees than commuters entering Manhattan from the outer boroughs. Such a scheme would be extremely unfair to New Jersey drivers and an unconstitutional burden on interstate commerce.

As originally devised, your congestion pricing plan was designed to allow tolls paid by drivers at bridges and tunnels entering Manhattan to offset the congestion price drivers would be charged for driving in Manhattan below 60th Street. Thus, whether someone was paying a toll to cross the Triborough Bridge or to cross the George Washington Bridge, the congestion price would be discounted by the amount paid in toll. That plan placed a large burden on drivers, but at least it is was fair.

But last week you secretly changed the plan to include a special surcharge on New Jersey drivers. No longer will they have their tolls offset the congestion price as New York drivers enjoy. Instead, New Jersey drivers will have to pay \$11 to enter Manhattan while New York drivers will only have to pay \$8. This system is patently unfair and unconstitutional.

The Commerce Clause of the United States Constitution grants Congress the power to "regulate Commerce . . . among the several States." U.S. Const. art. I, § 8, cl. 3. The Commerce Clause limits the power of states to discriminate against interstate commerce and prohibits states from passing measures that protect in-state economic interests by burdening out-of-state economic interests. See New Energy Co. v. Limbach, 486 U.S. 269, 273 (1988). The congestion pricing scheme as currently devised is precisely this kind of protectionism. The movement of New Jersey's goods and people into Manhattan cannot be singled out and treated unfairly no matter how politically convenient is if for the State of New York.

The scheme is doubly unfair since New York City stands to gain \$354 million in federal funds designed to improve mass transit services in New York. The 140,000 New Jerseyans who commute to New York City will not see any of these funds despite the considerable strain that will surely be placed on our state's mass transit system should this plan be put in place.

On behalf of New Jersey commuters I ask that you please restore equity to your congestion pricing plan. New Jersey and New York should remain partners in solving our shared transportation burdens. By treating New Jerseyans unfairly this plan threatens to severely strain this partnership.

Sincerely,

A handwritten signature in blue ink, reading "Robert Menendez", with a horizontal line underneath the name.

ROBERT MENENDEZ
United States Senator